

AMENDED IN SENATE AUGUST 25, 2000

AMENDED IN SENATE JUNE 20, 2000

AMENDED IN ASSEMBLY APRIL 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2759

**Introduced by Committee on Governmental Organization
(Wesson (Chair), Granlund (Vice Chair), Brewer, Briggs,
Cardoza, Lempert, Longville, Margett, Vincent, Wiggins,
and Wright)**

February 25, 2000

An act to amend Sections 23050, 23100, 23800, 23817.5, 23824, 23986, 25503.6, 25503.8, 25503.26, 25503.85, and 25512 of, ~~to add~~ ~~Section 24048.5 to~~, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as amended, Committee on Governmental Organization. Department of Alcoholic Beverage Control: director : licensees: tied-house restrictions.

(1) Under existing law, the director of the Department of Alcoholic Beverage Control is required to be a member of the Governor's Council, and entering upon the duties of the office, is required to execute an official bond to the state for \$25,000.

This bill would remove those requirements.

(2) Existing law allows a person in possession of a stock of lawfully acquired alcoholic beverages following the

revocation or voluntary surrender of, or failure to renew, an alcoholic beverage license to sell that stock to licensees, as authorized by the Department of Alcoholic Beverage Control.

This bill would instead allow a wholesaler or manufacturer to accept the return of beer under similar circumstances and credit the retailer, as provided.

~~(3) Existing law sets forth requirements for renewal of licenses.~~

~~This bill would allow a wholesaler to sell to a holder of a retail license whose license has been surrendered, canceled, revoked, or indefinitely suspended, under certain circumstances.~~

~~(4) Under existing law, the Department of Alcoholic Beverage Control is authorized to place reasonable restrictions upon retail licensees or any licensee in the exercise of retail privileges in various situations. Existing law permits the department to place reasonable restrictions on these licensees if the department adopts conditions requested by a local governing body. This~~

~~This bill would permit the department in that situation to place reasonable restrictions on these licensees at the time of transfer of a license under specified circumstances.~~

~~(5)–~~

~~(4) Existing law permits replacement off-sale and beer licenses for use at abandoned premises that were licensed within the past 12 months.~~

~~This bill, instead, would permit replacement off-sale and beer licenses for use at abandoned premises that were licensed and operated within the past 90 days.~~

~~(5) Existing law provides that limitations on the number of licensed premises shall not apply to premises located on land owned by the State of California.~~

~~This bill would provide additionally that those limitations on the number of licensed premises shall not apply to premises located on land owned by and leased from the State of California.~~

~~(6) Existing law requires an applicant for an on-sale or off-sale license in a census tract having an undue concentration of licenses, as defined by departmental rule or~~

regulation, to have a notice of the application published, as specified.

This bill instead would refer to an undue concentration of licenses, as defined by a particular statute.

~~(6)~~

(7) Existing provisions of the Alcoholic Beverage Control Act known as “tied-house” restrictions generally prohibit an on-sale alcoholic beverage licensee from having an ownership interest in an alcoholic beverage manufacturer. Existing law allows as an exception to those provisions a holder of no more than 8 on-sale licenses to hold not more than 16.67% of the stock of a corporation that holds beer manufacturer licenses that are located in Sacramento, Placer, El Dorado, Marin, or Napa County.

This bill would remove El Dorado and Marin Counties, and add Contra Costa and San Joaquin Counties to the authorized locations. ~~This bill would also revise those provisions to refer to “beer manufacturer” instead of “holder of a beer manufacturer’s license.”~~

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee.

Under existing law, the holder of a beer manufacturer’s license or a winegrower’s license is permitted to purchase advertising space and time from or on behalf of an on-sale retail licensee under certain conditions, if the on-sale licensee owns a specified facility.

This bill would extend that authorization to a beer manufacturer distilled spirits manufacturer and a distilled spirits manufacturer’s agent. The bill would permit specified manufacturers to purchase advertising space and time from a retail licensee who is the owner, manager, agent, assignee, or major tenant of a certain sized arena in Los Angeles County.

The bill would include a theme or amusement park and the adjacent retail, dining, and entertainment area located in the City of Los Angeles or Los Angeles County within the enumerated facilities permitted to be owned by an on-sale



licensee for purposes of the purchase of advertising time and space.

(8) This bill would also make it a misdemeanor for an on-sale retail licensee subject to the provisions of the bill, to solicit or coerce a holder of a distilled spirits license to purchase that advertising space or time.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23050 of the Business and
2 Professions Code is amended to read:

3 23050. There is in the State Government a
4 Department of Alcoholic Beverage Control. The
5 department shall be administered through a civil
6 executive officer who shall be known as the Director of
7 Alcoholic Beverage Control. The director shall be
8 appointed and shall serve as provided in Section 22 of
9 Article XX of the Constitution and shall receive an annual
10 salary as provided for by Chapter 6 of Part 1 of Division
11 3 of Title 2 of the Government Code.

12 SEC. 2. Section 23100 of the Business and Professions
13 Code is amended to read:

14 23100. (a) A wholesaler or manufacturer, or any
15 successor thereto, may accept the return of beer
16 purchased from that wholesaler or manufacturer, or any
17 successor thereto, by the holder of a retail license
18 following the revocation of, suspension of, voluntary
19 surrender of, or failure to renew the retail license.

20 (b) A wholesaler or manufacturer, or any successor
21 thereto, may credit the account of the retailer identified

1 in subdivision (a) in an amount not to exceed the original
2 sales price to the retailer of the returned beer, provided
3 that the beer has been paid for in full.

4 SEC. 3. Section 23800 of the Business and Professions
5 Code is amended to read:

6 23800. The department may place reasonable
7 conditions upon retail licensees or upon any licensee in
8 the exercise of retail privileges in the following situations:

9 (a) If grounds exist for the denial of an application for
10 a license or where a protest against the issuance of a
11 license is filed and if the department finds that those
12 grounds may be removed by the imposition of those
13 conditions.

14 (b) Where findings are made by the department
15 which would justify a suspension or revocation of a
16 license, and where the imposition of a condition is
17 reasonably related to those findings. In the case of a
18 suspension, the conditions may be in lieu of or in addition
19 to the suspension.

20 (c) Where the department issues an order suspending
21 or revoking only a portion of the privileges to be exercised
22 under the license.

23 (d) Where findings are made by the department that
24 the licensee has failed to correct objectionable conditions
25 within a reasonable time after receipt of notice to make
26 corrections given pursuant to subdivision (e) of Section
27 24200.

28 (e) At the time of transfer of a license pursuant to
29 Section 24071.1, 24071.2, or 24072 and upon written notice
30 to the licensee from the department adopting conditions
31 requested by the local governing body, or its designated
32 subordinate officer or agency, in whose jurisdiction the
33 license is located. The request for conditions shall be
34 supported by substantial evidence that the problems
35 either on the premises or in the immediate vicinity
36 identified by the local governing body or its designated
37 subordinate officer or agency will be mitigated by the
38 conditions. Upon receipt of the request for conditions, the
39 department shall either adopt the conditions requested
40 or notify the local governing body, or its designated

1 subordinate officer or agency, in writing of its
2 determination that there is not substantial evidence that
3 the problem exists or that the conditions would not
4 mitigate the problems identified. The department may
5 adopt conditions requested pursuant to this paragraph
6 only when the request is filed within the time authorized
7 for a local law enforcement agency to file a protest or
8 proposed conditions pursuant to Section 23987.

9 *SEC. 3.3. Section 23817.5 of the Business and*
10 *Professions Code is amended to read:*

11 23817.5. (a) (1) The number of premises for which
12 an off-sale beer and wine license is issued shall be limited
13 to one for each 2,500, or fraction thereof, inhabitants of
14 the city or county in which the premises are situated. No
15 additional off-sale beer and wine license, other than a
16 renewal or transfer or as permitted by Section 23821, shall
17 be issued in any city or county where the number of
18 premises for which all off-sale beer and wine licenses are
19 issued is more than one for each 2,500, or fraction thereof,
20 inhabitants of the city or county.

21 (2) The number of premises for which an off-sale beer
22 and wine license is issued in a city and county, in
23 combination with the number of premises for which an
24 off-sale general license is issued in a city and county, shall
25 be limited to one for each 1,250, or fraction thereof,
26 inhabitants of the city and county in which the premises
27 are situated. No additional off-sale beer and wine license,
28 other than a renewal or transfer or as permitted by
29 Section 23821, shall be issued in any city and county where
30 the number of premises for which all off-sale beer and
31 wine licenses in combination with off-sale general
32 licenses are issued is more than one for each 1,250, or
33 fraction thereof, inhabitants of the city and county.

34 (b) Notwithstanding subdivision (a), a retail off-sale
35 beer and wine replacement license shall be issued upon
36 application when all of the following conditions exist:

37 (1) The replacement license is only for use at a
38 premises which was licensed *and operated* within the past
39 ~~12 months~~ 90 days.

(2) The prior licensee abandoned the premises or the original license is subject to a bankruptcy proceeding and the prior licensee has no right to operate at that location. For purposes of this paragraph, “abandoned” means that the prior license has not been transferred to a new location and the prior licensee is not exercising dominion or control over the premises. “Abandoned” does not mean a license which has been voluntarily surrendered pursuant to department rule.

(3) The application for a replacement license shall be accompanied by a fee of one hundred dollars (\$100).

(c) The following limitations shall apply to the issuance of a replacement license:

(1) The replacement license shall not be transferred to another premises.

(2) All conditions imposed on the original license shall apply to the replacement license.

(3) The original license shall ~~not be transferred~~ subsequent to be canceled by operation of law upon the issuance of the replacement license.

SEC. 3.5. Section 23824 of the Business and Professions Code is amended to read:

23824. Limitations provided by Section 23816 on the number of licensed premises shall not apply to premises located on land owned by and leased from the State of California, or to premises owned by the State of California, any incorporated city, county, city and county, airport district, or other district or public corporation of the State of California or to premises leased to the State of California or to any city or county, so long as the premises are operated as a bona fide public eating place, provided, however, that civic auditoriums owned by any incorporated city, county, city and county, or other district or any premises leased to the State of California or to any county or city for use as a civic auditorium and directly operated by a public entity shall be subject to the limitations provided by Section 23816, but shall not be required to be operated as a bona fide public eating place. The civic auditorium shall further not be subject to the provisions of Section 23793.

1 Licenses issued on premises owned by the state,
2 incorporated city, county, city and county, airport
3 district, or other district or public corporation of the State
4 of California, or issued on premises leased to the State of
5 California or to any county or city, shall be renewable as
6 set forth in Section 24048. These licenses shall be excluded
7 from the number of premises used in determining
8 application of the limitations provided by this article.
9 These licenses shall be subject to an original fee of six
10 thousand dollars (\$6,000) and shall be only transferable
11 from person to person at the same premises. Prior to the
12 issuance of these licenses, the governmental agency
13 owning or leasing the premises shall file with the
14 department a written request that the license be issued
15 and a written statement setting forth the reasons why
16 issuance of the license would be in the public interest.

17 A written request filed with the department by the
18 governmental agency owning or the city or county
19 leasing premises used as a civic auditorium and directly
20 operated as a public entity that the license be issued need
21 not contain a written statement setting forth the reasons
22 why issuance of the license would be in the public
23 interest.

24 Funds derived from fees collected pursuant to the
25 amendments made to this section at the 1975–76 Regular
26 Session of the Legislature shall be deposited in the
27 General Fund.

28 SEC. 4. Section 23986 of the Business and Professions
29 Code is amended to read:

30 23986. (a) Any applicant for an on-sale license shall
31 cause a notice of the application, giving the name or
32 names of the applicant and the premises where the
33 business is to be conducted, to be published pursuant to
34 Section 6061 of the Government Code in a newspaper of
35 general circulation, other than a legal or professional
36 trade publication, in the city in which the premises are
37 situated, or if the premises are not in a city, the
38 publication shall be made in a newspaper of general
39 circulation nearest the premises where the business is to
40 be conducted. The form of the notice shall be prescribed

1 by the department. Affidavit of publication shall be filed
2 with the department prior to the issuance of any license.
3 The department shall adopt rules and regulations to
4 enforce the provisions of this section.

5 (b) Any applicant for an on-sale or off-sale license at a
6 premises which is located in a census tract which has an
7 undue concentration of licenses, as defined in paragraph
8 (2) or (3) of subdivision (a) of Section 23958.4, shall cause
9 a notice of the application to be published pursuant to
10 Section 6063 of the Government Code in a newspaper of
11 general circulation other than a legal or trade publication.
12 Publication shall be made in the city in which the
13 premises are situated, or if the premises are not in a city,
14 the publication shall be made in a newspaper of general
15 circulation nearest the premises where the business is to
16 be conducted. The form of the notice shall be prescribed
17 by the department. Affidavit of publication shall be filed
18 with the department prior to the issuance of any license.
19 The department shall adopt rules and regulations to
20 enforce the provisions of this subdivision.

21 ~~SEC. 5. Section 24048.5 is added to the Business and~~
22 ~~Professions Code, to read:~~

23 ~~24048.5. (a) A wholesaler may sell to the holder of a~~
24 ~~retail license whose license has been canceled pursuant~~
25 ~~to subdivision (d) of Section 24048, until notice of~~
26 ~~revocation or renewal is received from the department~~
27 ~~and is effective pursuant to subdivision (d).~~

28 ~~(b) Notwithstanding any other provision of this~~
29 ~~division, a wholesaler may sell to the holder of a retail~~
30 ~~license whose license has been surrendered, canceled,~~
31 ~~revoked, or indefinitely suspended for reasons other than~~
32 ~~those specified in subdivision (d) of Section 24048, until~~
33 ~~notice is received from the department and is effective~~
34 ~~pursuant to subdivision (c). A wholesaler may not sell to~~
35 ~~a license applicant until notice of licensure is received~~
36 ~~from the department.~~

37 ~~(c) For purposes of this section, notice to a wholesaler~~
38 ~~is effective at the close of business one business day after~~
39 ~~receipt of department notice.~~

~~(d) The department may issue notice to wholesalers by first class mail, facsimile, or other written or electronic communication. Department notice shall include, as applicable, the following:~~

~~(1) Licensee, applicant, or transferor name and address.~~

~~(2) Premises address.~~

~~(3) License type.~~

~~(4) License numbers.~~

~~(5) Description of license status or license status change.~~

~~(6) Department district designation.~~

~~(7) License expiration date.~~

~~(8) A statement clearly identifying that the retail licensee can or cannot lawfully purchase alcoholic beverages from a wholesaler.~~

~~(9) Any other relevant information.~~

~~The department may identify and disseminate to wholesalers the geographically pertinent retail license information.~~

SEC. 6. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, a beer manufacturer ~~or~~, the holder of a winegrower's license may, *a distilled spirits manufacturer, or a distilled spirits manufacturer's agent* purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located within a county of the eighth class, as defined in Section 28029 of the Government Code.

(B) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County *or Los Angeles County*.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located within a county of the fourth class, as defined in Section 28025 of the Government Code.

(E) An outdoor stadium with a fixed seating capacity in excess of 10,000 seats located in Yolo County.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.

(3) The advertising space or time is purchased only in connection with the events to be held on the premises of the stadium or arena owned by the on-sale licensee.

(4) The on-sale licensee serves other brands of ~~beer or~~ *wine alcoholic beverages* in addition to the brand manufactured by the beer manufacturer or *distilled spirits manufacturer*, or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer or the holder of the winegrower's license and the on-sale licensee.

(c) Any beer manufacturer~~—or~~, holder of a winegrower's license, *a distilled spirits manufacturer, or a distilled spirits manufacturer's agent* who, through coercion or other illegal means, induces a holder of a beer or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

1 (d) Any on-sale retail licensee, as described in
2 subdivision (a), who solicits or coerces a holder of a beer
3 or wine wholesaler's license to solicit a beer manufacturer
4 ~~or~~, holder of a winegrower's license, *a distilled spirits*
5 *manufacturer, or a distilled spirits manufacturer's agent*
6 to purchase advertising space or time pursuant to
7 subdivision (a) or (b) shall be guilty of a misdemeanor
8 and shall be punished by imprisonment in the county jail
9 not exceeding six months, or by a fine in an amount equal
10 to the entire value of the advertising space or time
11 involved in the contract, plus ten thousand dollars
12 (\$10,000), or by both imprisonment and fine. The person
13 shall also be subject to license revocation pursuant to
14 Section 24200.

15 SEC. 7. Section 25503.8 of the Business and
16 Professions Code is amended to read:

17 25503.8. (a) Notwithstanding any other provision of
18 this chapter, a beer manufacturer—~~or~~, the holder of a
19 winegrower's license, *a distilled spirits manufacturer, or*
20 *a distilled spirits manufacturer's agent* may purchase
21 advertising space and time from, or on behalf of, an
22 on-sale retail licensee if all of the following conditions are
23 met:

24 (1) The on-sale licensee is the owner of any of the
25 following:

26 (A) A fully enclosed auditorium or theater with a fixed
27 seating capacity in excess of 6,000 seats, at least 60 percent
28 of the use of which is for plays or musical concerts, not
29 including sporting events.

30 (B) A motion picture studio facility at which public
31 tours are conducted for at least four million people per
32 year.

33 (C) A retail, entertainment development adjacent to,
34 and under common ownership with, a theme park,
35 amphitheater, and motion picture production studio.

36 (D) A theme or amusement park and the adjacent
37 retail, dining, and entertainment area located in *the City*
38 *of Los Angeles, Los Angeles County, or Orange County.*

39 (2) The advertising space or time is purchased only in
40 connection with one of the following:

1 (A) In the case of a fully enclosed auditorium or
2 theater, in connection with sponsorship of plays or
3 musical concerts to be held on the premises of the
4 auditorium or theater owned by the on-sale licensee.

5 (B) In the case of a motion picture studio facility, in
6 connection with sponsorship of the public tours or special
7 events conducted at the studio facility.

8 (C) In the case of a retail, entertainment
9 development, in connection with sponsorship of public
10 tours or special events conducted at the development.

11 (D) In the case of a theme or amusement park and the
12 adjacent retail, dining, and entertainment area, located
13 in *the City of Los Angeles, Los Angeles County, or*
14 Orange County, in connection with daily activities and
15 events at the theme or amusement park and the adjacent
16 retail, dining, and entertainment area.

17 (3) The on-sale licensee serves other brands of ~~beer~~
18 *distilled spirits, beer,* or wine in addition to the brand
19 *manufactured or marketed by the distilled spirits*
20 *manufacturer, distilled spirits manufacturer's agent, or*
21 beer manufacturer, or produced by the winegrower
22 purchasing the advertising space or time.

23 (b) Any purchase of advertising space or time
24 conducted pursuant to subdivision (a) shall be conducted
25 pursuant to a written contract entered into by the beer
26 manufacturer~~—or~~, the holder of the winegrower's license,
27 *the distilled spirits manufacturer, or the distilled spirits*
28 *manufacturer's agent,* and the on-sale licensee, which
29 contract shall not in any way involve the holder of a ~~beer~~
30 *distilled spirits, beer,* or wine wholesaler's license.

31 (c) Any beer manufacturer, *distilled spirits*
32 *manufacturer, distilled spirits manufacturer's agent,* or
33 holder of a winegrower's license who, through coercion
34 or other means, induces a holder of a beer or wine
35 wholesaler's license to fulfill those contractual obligations
36 entered into pursuant to subdivision (a) or (b) shall be
37 guilty of a misdemeanor and shall be punished by
38 imprisonment in the county jail not exceeding six months,
39 or by a fine in an amount equal to the entire value of the
40 advertising space or time involved in the contract, plus

1 ten thousand dollars (\$10,000), or by both imprisonment
2 and fine. The person shall also be subject to license
3 revocation pursuant to Section 24200.

4 (d) Any on-sale retail licensee, as described in
5 subdivision (a), who solicits or coerces a holder of a beer
6 or wine wholesaler's license to solicit a beer
7 manufacturer, *distilled spirits manufacturer, or distilled*
8 *spirits manufacturer's agent*, or holder of a winegrower's
9 license to purchase advertising space or time pursuant to
10 subdivision (a) or (b) shall be guilty of a misdemeanor
11 and shall be punished by imprisonment in the county jail
12 not exceeding six months, or by a fine in an amount equal
13 to the entire value of the advertising space or time
14 involved in the contract, plus ten thousand dollars
15 (\$10,000), or by both imprisonment and fine. The person
16 shall also be subject to license revocation pursuant to
17 Section 24200.

18 SEC. 8. Section 25503.26 of the Business and
19 Professions Code is amended to read:

20 25503.26. (a) Notwithstanding any other provision of
21 this chapter, a beer manufacturer, the holder of a
22 winegrower's license, ~~or~~ a manufacturer of distilled
23 spirits, *or distilled spirits manufacturer's agent*, may
24 purchase advertising space and time from, or on behalf of,
25 an on-sale retail licensee subject to all of the following
26 conditions:

27 (1) The on-sale licensee is the owner, or is the lessee,
28 or is a wholly owned subsidiary of the lessee, of an arena
29 with a fixed seating capacity in excess of 10,000 seats, at
30 least 60 percent of the use of which is for horseracing
31 events, and which is located within Los Angeles County,
32 Alameda County, or San Mateo County.

33 (2) The advertising space or time is purchased only in
34 connection with events to be held on the premises of the
35 arena owned or leased by the on-sale licensee.

36 (3) The on-sale licensee serves other brands of beer,
37 distilled spirits, or wine in addition to the brand
38 manufactured by the beer manufacturer or distilled
39 spirits manufacturer or produced by the winegrower
40 purchasing the advertising space or time.

1 (b) Any purchase of advertising space or time
2 pursuant to subdivision (a) shall be conducted pursuant
3 to a written contract entered into by the beer
4 manufacturer, the holder of the winegrower's license, or
5 the manufacturer of distilled spirits, and the on-sale
6 licensee.

7 (c) Any beer manufacturer, holder of a winegrower's
8 license, or manufacturer of distilled spirits, who, through
9 coercion or other illegal means, induces a holder of a beer
10 or wine or distilled spirits wholesaler's license to fulfill the
11 contractual obligations entered into pursuant to
12 subdivision (a) or (b) is guilty of a misdemeanor and shall
13 be punished by imprisonment in the county jail not
14 exceeding six months, or by a fine in an amount equal to
15 the entire value of the advertising space or time involved
16 in the contract plus ten thousand dollars (\$10,000), or by
17 both imprisonment and fine. The person shall also be
18 subject to license revocation pursuant to Section 24200.

19 SEC. 9. Section 25503.85 of the Business and
20 Professions Code is amended to read:

21 25503.85. (a) Notwithstanding any other provision of
22 this chapter, a beer manufacturer or the holder of a
23 distilled spirits manufacturer's license or winegrower's
24 license may purchase advertising space and time from, or
25 on behalf of, an on-sale retail licensee, that shall be limited
26 to small notices, plaques, or signs that portray partial or
27 full sponsorship or funding of educational programs,
28 special fundraising and promotional events,
29 improvements in capital projects, and the development
30 of exhibits or facilities, if all of the following conditions are
31 met:

32 (1) The on-sale licensee is a zoo or aquarium operated
33 by a nonprofit organization that is accredited by the
34 American Association of Zoological Parks and Aquariums.

35 (2) The advertising space or time is purchased only in
36 connection with the sponsorship of activities that are held
37 on the premises or grounds owned, leased, or controlled
38 by the on-sale licensee.

39 (3) The on-sale licensee serves other brands of distilled
40 spirits, beer, or wine within the same license category, in

1 addition to the brand manufactured by the distilled spirits
2 or beer manufacturer or produced by the winegrower
3 purchasing the advertising space or time.

4 (b) Nothing in this section shall be construed to permit
5 the purchase of billboards or bench advertisements as
6 “advertising space.”

7 (c) Any purchase of advertising space or time
8 pursuant to subdivision (a) shall be accomplished by a
9 written contract entered into by the beer manufacturer
10 or the holder of the distilled spirits manufacturer’s license
11 or winegrower’s license and the on-sale licensee. That
12 contract shall not in any way involve the holder of a
13 distilled spirits wholesaler’s license, or beer and wine
14 wholesaler’s license.

15 (d) Any beer manufacturer or holder of a distilled
16 spirits manufacturer’s license or winegrower’s license
17 who, through coercion or other means, induces a holder
18 of a distilled spirits wholesaler’s license or beer and wine
19 wholesaler’s license to fulfill those contractual obligations
20 entered into pursuant to subdivision (a) or (c) is guilty of
21 a misdemeanor and shall be punished by imprisonment
22 in the county jail for a period not to exceed six months, or
23 by a fine in an amount equal to the entire value of the
24 advertising space or time involved in the contract, plus
25 ten thousand dollars (\$10,000), or by both imprisonment
26 and fine. The person shall also be subject to license
27 revocation pursuant to Section 24200.

28 SEC. 10. Section 25512 of the Business and Professions
29 Code is amended to read:

30 25512. (a) Notwithstanding any other provision of
31 this division, any licensee or officer, director, employee,
32 or agent of a licensee that holds no more than eight
33 on-sale licenses may also hold not more than 16.67 percent
34 of the stock of a corporation that holds beer manufacturer
35 licenses issued pursuant to paragraph (1) of subdivision
36 (a) of Section 23320 that are located in Sacramento,
37 Placer, Contra Costa, San Joaquin, or Napa County, and
38 may serve on the board of directors and as an officer or
39 employee of that corporate licensed beer manufacturer.

1 (b) An on-sale licensee specified in subdivision (a)
2 shall purchase no alcoholic beverages for sale in this state
3 other than from a licensed wholesaler or winegrower.

4 (c) In enacting this section, the Legislature finds that
5 it is necessary and proper to require a separation between
6 manufacturing interests, wholesale interests, and retail
7 interests in the production and distribution of alcoholic
8 beverages in order to prevent suppliers from dominating
9 local markets through vertical integration and to prevent
10 excessive sales of alcoholic beverages produced by overly
11 aggressive marketing techniques. The Legislature
12 further finds that the exception established by this section
13 to the general prohibition against tied-house interests
14 must be limited to its expressed terms so as not to
15 undermine the general prohibition, and intends that this
16 section be construed accordingly.

17 *SEC. 11. No reimbursement is required by this act*
18 *pursuant to Section 6 of Article XIII B of the California*
19 *Constitution because the only costs that may be incurred*
20 *by a local agency or school district will be incurred*
21 *because this act creates a new crime or infraction,*
22 *eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section*
24 *17556 of the Government Code, or changes the definition*
25 *of a crime within the meaning of Section 6 of Article*
26 *XIII B of the California Constitution.*

